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JAN 27 2006

In re Application of :  
Nancy Tulgren et al :  
Application No. 10/658,670 :  
Filed: September 9, 2003 :  
Attorney Docket No. 3135.02US01 :

ON PETITION

OFFICE OF PETITIONS

This is a decision on the petition under 37 CFR 1.137(b), filed November 4, 2005, to revive the above-identified application.

The petition is GRANTED.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed October 26, 2004, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). The amendment submitted on January 26, 2005, did not *prima facie* place the application in condition for allowance as noted in the Advisory Action mailed February 7, 2005. Therefore, as no Notice of Appeal (and appeal fee), Request for Continued Examination (RCE) or a continuing application was timely filed, and no extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 27, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Request for Continued Examination (RCE); (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of October 26, 2004 is accepted as having been unintentionally delayed.

Pursuant to petitioner's authorization, Deposit Account No. 16-0631 was charged a total of \$1,145.00 -- \$752.00 for the petition to revive an unintentionally abandoned application and \$395.00 for the RCE fee.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 3643.

Wan Laymon

Petitions Examiner  
Office of Petitions